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3                   IN THE UNITED STATES DISTRICT COURT  
4                   FOR THE DISTRICT OF ARIZONA

5                   IN RE BARD IVC FILTERS  
6                   PRODUCTS LIABILITY LITIGATION

No. 2:15-MD-02641DGC  
**FIRST AMENDED SHORT FORM  
COMPLAINT**

**DENISE SMITH, INDIVIDUALLY and  
on behalf of the Estate of RONALD  
SMITH**

8                   Plaintiff(s) named below, for their Complaint against Defendants named below,  
9 incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc. 364)  
10 Plaintiff(s) further show the Court as follows:

11               1. Plaintiff/Deceased Party:

12               Ronald Smith

13               2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of  
14               consortium claim:

15               n/a

16               3. Other Plaintiff and capacity (i.e., administrator, executor, guardian,  
17               conservator):

18               Denise Smith; Representative

19               4. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at  
20               the time of implant:

21               n/a

5. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of injury:

New York

6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

New York

7. District Court and Division in which venue would be proper absent direct filing:

United States District Court for the Northern District of New York

8. Defendants (check Defendants against whom Complaint is made):

X C.R. Bard Inc.

## X Bard Peripheral Vascular, Inc.

#### **9. Basis of Jurisdiction:**

## X Diversity of Citizenship

Other:

a. Other allegations of jurisdiction and venue not expressed in Master Complaint:

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10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

Recovery® Vena Cava Filter

G2® Vena Cava Filter

G2® Express Vena Cava Filter

- G2® X Vena Cava Filter
  - Eclipse® Vena Cava Filter
  - Meridian® Vena Cava Filter

X Denali® Vena Cava Filter

Other:

11. Date of Implantation as to each product:

10/10/2013

**12. Counts in the Master Complaint brought by Plaintiff(s):**

X      Count I:      Strict Products Liability – Manufacturing Defect

X Count II: Strict Products Liability – Information Defect (Failure to Warn)

### X Count III: Strict Products Liability – Design Defect

## X Count IV: Negligence - Design

## X      Count V:      Negligence - Manufacture

X Count VI: Negligence – Failure to Recall/Retrofit

X Count VII: Negligence – Failure to Warn

## X Count VIII: Negligent Misrepresentation

X Count IX: Negligence *Per Se*

X Count X: Breach of Express Warranty

## X Count XI: Breach of Implied Warranty

X Count XII: Fraudulent Misrepresentation

X Count XIII: Fraudulent Concealment

X Count XIV: Violations of Applicable New York (insert state)  
Law Prohibiting Consumer Fraud and Unfair and Deceptive Trade  
Practices

Count XV: Loss of Consortium

Count XVI: Wrongful Death

□ Count XVII: Survival

X Punitive Damages

Other(s): \_\_\_\_\_ (please state the facts supporting this Count in the space immediately below)

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www.nature.com/scientificreports/

13. Jury Trial demanded for all issues so triable?

X Yes

□ No

1 RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of May, 2018.

2 TAUTFEST BOND, PLLC

3 By: s/Monte Bond

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9 214.617.9986 (fax)

10  
11 Attorney for Plaintiff

12 I hereby certify that on this 11<sup>th</sup> day of May, 2018, I electronically transmitted  
13 the attached document to the Clerk's Office for filing using the CM/ECF System filing and  
14 transmittal of a Notice of Electronic Filing.

15 *s/Monte Bond*